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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/930,023	08/14/2001	Brett E. Miller	42390P12239	1940
8791	7590	09/08/2004	EXAMINER	
BLAKELY SOKOLOFF TAYLOR & ZAFMAN			BROWN, VERNAL U	
12400 WILSHIRE BOULEVARD			ART UNIT	
SEVENTH FLOOR			PAPER NUMBER	
LOS ANGELES, CA 90025-1030			2635	

DATE MAILED: 09/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/930,023

Applicant(s)

MILLER ET AL.

Examiner

Vernal U Brown

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,4-6,11,15-18,22-28,33-36 and 42-83 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,4-6,11,15-18,22-28,33-36 and 42-83 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

This action is responsive to communication filed on August 5, 2004.

#### ***Response to Amendment***

The examiner has acknowledged the amendment of claims 1, 11, 18, 25-28, 33-35, and the addition of claims 60-83.

#### ***Response to Arguments***

Applicant's arguments with respect to claims 1, 5, 6, 15-18, 22-24, 42, 45, 47, 48, 51, 53, and 59 have been considered but are moot in view of the new ground(s) of rejection.

Regarding applicant's argument regarding the low-power state, Lopes teaches the computer entering a standby state (col. 4 line 56) and although Lopes did not explicitly defined the standby state as a low power state, the reference of Koo is relied upon for teaching the standby state of a computer is a low power state (col. 5 lines 53-54).

#### ***Claim Objections***

Claims 42-59 are objected to because of the following informalities:

A series of singular dependent claims is permissible in which a dependent claim refers to a preceding claim which, in turn, refers to another preceding claim.

A claim which depends from a dependent claim should not be separated by any claim which does not also depend from said dependent claim. It should be kept in mind that a dependent claim may refer to any preceding independent claim. In general, applicant's sequence will not be changed. See MPEP § 608.01(n).

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 27 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 27, the examiner is unable to determine what is transmitting the wireless signal.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 25, 27, 28, 33, and 34 are rejected under 35 U.S.C. 102(e) as being anticipated by Lopes U.S Patent 6189105.

Regarding claim 25, Lopes teaches detecting when a predetermined device (100) enters a predetermined region with respect to computer system (col. 3 lines 31-37); and causing the electronic device to boot up (wake up to full operation mode) in response to the predetermined device entering the predetermined region (col. 4 lines 23-39).

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Regarding claim 27, Lopes teaches the method determining when the predetermined device enters the predetermined region with respect to the device computer system further comprises: transmitting a wireless signal (col. 3 lines 52-55, col. 6 lines 23-25); detecting whether an acknowledge signal is transmitted by the predetermined device in response to the wireless signal; and determining, from the acknowledge signal, whether the predetermined device is within the predetermined region with respect to the computer system (col. 6 lines 51-60).

Regarding claim 28, Lopes teaches determining when the predetermined device enters the predetermined region with respect to the computer system further comprises: detecting a signal transmitted by the predetermined device; and determining, from the signal, whether the predetermined device is within the predetermined region to the electronic device (col. 6 lines 51-60).

Regarding 33, Lopes teaches a detector (120) that detects when a predetermined device is within a predetermined range of the computer system (col. 3 lines 51-56); and a control circuit that causes the computer system to boot up in response to the predetermined device entering the predetermined range (col. 4 lines 60-64).

Regarding claim 34, Lopes teaches the predetermined device comprises a transmitter to transmit wireless signals (col. 6 lines 23-25) and the detector comprises a receiver (522) to receive the wireless signals from the predetermined device.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 5, 11, 18, 42, 45, 47-48, 51, 53-54, 57, 59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lopes U.S Patent 6189105 in view of Koo U.S Patent 6684338.

Regarding claims 1, 11 Lopes teaches an apparatus comprising: a detection circuit to detect whether a predetermine user identification device is within a predetermined proximity of a computer system (col. 3 lines 31-37); and a control circuit coupled with the detection circuit to cause an operating system of the computer system to be in a first normal operatic state when the user identification device is within the predetermined proximity (col. 4 lines 1-7) and to cause the operating system of the computer system to be in an inactive state when the user identification device is not within the predetermined proximity (col. 4 lines 23-39), wherein transition of the operating system from the inactive state to the normal operating state occurs without interaction between the user and the computer system by using wireless communication (col. 3 lines 51-60). Lopes further teaches having a standby mode (col. 4 line 56) but is however not explicit in teaching the standby mode is a low power mode. Koo in an art related invention in the same field of endeavors as power management for a computer teaches a computer having a standby mode that is a low power mode (col. 5 lines 53-54).

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It would have been obvious to one of ordinary skill in the art to cause the computer system to be in a low power state when the user device is not within the predetermined proximity of the computer in Lopes as evidenced by Koo because Lopes suggests the computer entering a standby state when the user device is not within the predetermined proximity of the computer and Koo teaches a computer having a standby state which is a low power state so as to conserve on the power.

Regarding claim 5, Lopes teaches the user identification device (100) comprises a transmitter to transmit wireless signals (col. 6 lines 23-27) and the detector comprises a receiver to receive the wireless signals from the user identification device (col. 6 lines 32-35).

Regarding claim 18, Lopes teaches an article (130) comprising a machine-accessible medium providing access to sequences of instructions that, when executed by one or more processors, cause the one or more processors to:

determine whether a user identification device is within a predetermined proximity of computer system (col. 4 lines 8-21);

cause the operating system of the computer system to be in a normal operating state when the user identification device is within the predetermined proximity of the computer system (col. 4 lines 1-7);

and cause the operating system of the computer system to be in an inactive state when the user identification device is not within the predetermined proximity of the computer system (col. 4 lines 23-39), wherein transition of the operating system from the inactive state to the normal operating state occurs without interaction between the user

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and the computer system by using wireless communication (col. 3 lines 51-60). Lopes further teaches having a standby mode (col. 4 line 56) but is however not explicit in teaching the standby mode is a low power mode. Koo in an art related invention in the same field of endeavors as power management for a computer teaches a computer having a standby mode that is a low power mode (col. 5 lines 53-54).

It would have been obvious to one of ordinary skill in the art to cause the computer system to be in a low power state when the user device is not within the predetermined proximity of the computer in Lopes as evidenced by Koo because Lopes suggests the computer entering a standby state when the user device is not within the predetermined proximity of the computer and Koo teaches a computer having a standby state which is a low power state so as to conserve on the power.

Regarding claims 42 and 48, Lopes teaches the computer system comprises a desktop computer system (figure 1).

Regarding claims 45 and 51, Lopes teaches the user identification device comprises an identification badge (100) as shown in figure 1.

Regarding claims 47, 53, and 59, Lopes teaches the user identification device identifies an associated user as a member of a group of authorized users (col. 4 lines 25-30).

Regarding claim 54, Lopes teaches the computer system comprises a desktop computer system (figure 1).

Regarding claim 57, Lopes teaches the user identification device comprises an identification badge (100) as shown in figure 1.



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Claims 6, 15-17, 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lopes U.S Patent 6189105 in view of Koo U.S Patent 6684338 and further in view of Bates et al. U.S Patent 6420961.

Regarding claims 6, Lopes in view of Koo teaches detecting the proximity of a person to the computer system by detecting the inference with a transmitted wave (col. 6 lines 48-50) but is silent on teaching the user device comprises a reflective device to reflect the wireless signals. Bates in an art related wireless communication system teaches a reflective device (46) to reflect the wireless signals (col. 7 lines 6-8) which also represents a conventional means of reading a user device.

It would have been obvious to one of ordinary skill in the art for the predetermined device comprises a reflective device to reflect the wireless signal in Lopes in view of Koo as evidenced by Bates et al. because Lopes in view of Koo suggests the user device transmit the user identification signal and Bates et al. teaches a reflective device to reflect the wireless signals which also represents a conventional means of transmitting a signal from a user device.

Regarding claims 15-17 and 22-24, Lopes in view of Koo teaches detecting the proximity of a person to the computer system by detecting the inference with a transmitted wave (col. 6 lines 48-50) but is silent on teaching detecting whether the wireless signal is reflected by the user identification device and determining, from the reflected signal, whether the user identification device is within the predetermined proximity to the computer system. Bates in an art related wireless communication system teaches a reader (26) detecting when an identification device (12) is within proximity by

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detecting the reflected signal from the device (col. 7 lines 6-12). Bates also teaches the user device (12) transmits an acknowledgement (response) (col. 7 lines 10-12).

It would have been obvious to one of ordinary skill in the art to detecting whether the wireless signal is reflected by the user identification device and determining, from the reflected signal, whether the user identification device is within the predetermined proximity to the computer system in Lopes in view of Koo as evidenced by Bates because Lopes in view of Koo suggests detecting the proximity of a person to the computer system by detecting the inference with a transmitted wave and Bates teaches detecting when an identification device is within proximity by detecting the reflected signal from the device which is also a conventional practice used to read electronic devices such as tags and transponder.

Claim 26 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lopes U.S Patent 6189105 in view of Bates et al. U.S Patent 6420961.

Regarding claims 26 and 35, Lopes teaches the predetermined device is within the predetermined proximity to the electronic device further comprises: transmitting a wireless signal (col. 3 lines 52-54); detecting whether the wireless signal is transmitted by the predetermined device (col. 3 lines 38-41); determining, from the transmitted signal, whether the predetermined device is within the predetermined proximity to the electronic device (col. 3 lines 52-62). Lopes is however silent on teaching the predetermined device reflects the response signal. Bates in an art related wireless communication system teaches a reflective device (46) to reflect the wireless signals (col. 7 lines 6-8) which also represents a conventional means of transmitting a response signal.

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It would have been obvious to one of ordinary skill in the art for the predetermined device comprises a reflective device to reflect the wireless signal in Lopes as evidenced by Bates et al. because Lopes suggests the predetermined device transmit reply signal and Bates et al. teaches a reflective device to reflect the wireless signals which also represents a conventional means of transmitting a response signal.

Claim 43, 49, and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lopes U.S Patent 6189105 in view of Atsmon et al. U.S Patent 6607136.

Regarding claim 43, 49, and 55, Lopes teaches a user operating a computer (figure 1) but is silent on teaching the computer system comprises a system within a kiosk. Atsmon et al. in an art related physical presence authentication system teaches a computer system integrated within a kiosk (col. 53 line 63-col.54 line 2).

It would have been obvious to one of ordinary skill in the art for the computer system to be within a kiosk in Lopes as evidenced by Atsmon et al. because Lopes teaches a user operating a computer when the user is proximate to the computer and Atsmon et al. teaches a computer system integrated within a kiosk for controlling the operation of the kiosk system.

Claim 44, 50, and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lopes U.S Patent 6189105 U.S Patent in view of Cash U.S Patent 4616852.

Regarding claim 44, 50, and 56 Lopes teaches the use of a computer system (figure 1) but is silent on teaching the computer system comprises a teller machine. One skilled in the art recognizes that a teller machine is considered a computer as evidenced by Cash (col. 2 lines 45-47).

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It would have been obvious to one of ordinary skill in the art for the computer system to comprise a teller machine in Lopes as evidenced by Cash because Lopes suggests operating a computer when the user is proximate to the computer and teller machines are operated when the user are proximate to the teller machine and one skilled in the art recognizes that a teller machine is considered a computer as evidenced by Cash.

Claim 46, 52, and 58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lopes U.S Patent 6189105 U.S Patent 5973611 in view of Koo U.S Patent 6684338 and further in view of Jung et al. U.S Patent 6675300.

Regarding claim 46, 52, and 58, Lopes in view of Koo teaches the an identification device (100) but is silent on teaching the user identification device comprises a key fob. Jung et al. in an art relate remote controlled computer teaches the use of a key fob (300) as an identification means for controlling the operation of a computer (col. 6 lines 16-20).

It would have been obvious to one of ordinary skill in the art to have the user identification device comprises a key fob in Lopes in view of Koo as evidenced by Jung et al. because Lopes in view of Koo suggests an identification device use in controlling the operation of the computer and Jung et al. teaches the use of a key fob as an identification means for controlling the operation of a computer.

Claims 60-71 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lopes U.S Patent 6189105 U.S Patent 5973611 in view of Kretschmann U.S Patent 6167464.

Regarding claims 60, 64, 68, Lopes teaches an apparatus comprising: a detection circuit to detect whether a predetermine user identification device is within a

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predetermined proximity of a computer system (col. 3 lines 31-37); and a control circuit coupled with the detection circuit to cause an operating system of the computer system to be in a first normal operatic state when the user identification device is within the predetermined proximity (col. 4 lines 1-7) and to cause the operating system of the computer system to be in an inactive state when the user identification device is not within the predetermined proximity (col. 4 lines 23-39), wherein transition of the operating system from the inactive state to the normal operating state occurs without interaction between the user and the computer system by using wireless communication (col. 3 lines 51-60). Lopes is however silent on teaching receiving global positioning coordinate for determining the proximity of the identification device to the computer system. Kretschmann in an art related proximity control invention teaches the use of global positioning coordinate for determining the position of a portable device in order to control the operation of a machine (col. 6 lines 56-61).

It would have been obvious to one of ordinary skill in the art to use global positioning coordinate for determining the proximity of the identification device to the computer system in Lopes as evidenced by Kretschmann because Lopes suggests detect whether a predetermine user identification device is within a predetermined proximity of a computer system and Kretschmann teaches the use of global positioning coordinate for determining the position of a portable device in order to control the operation of a machine.

Regarding claims 61-62, 65-66, and 69-70, Lopes teaches the program includes an operating system and include an application program (col. 4 lines 8-15).

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Regarding claims 63, 67, and 71, Lopes teaches the inactive state comprises a locked state to deny access to the program (col. 4 line 56).

Claims 72-83 are rejected under 35 U.S.C. 103(a) as being unpatentable over Xydis U.S Patent 6070240 in view of Woolley U.S Patent 5959568.

Regarding claims 72, 76, and 80 Xydis teaches an apparatus comprising: a detection circuit to transmit a wireless signal to a user identification device and to determine whether the user identification device is within a predetermined proximity of a computer system and a control circuit coupled with the detection circuit to cause a program running on the computer system to be in a normal operating state when the user identification device (col. 2 line 49-col. 3 line 4). Xydis is however silent on teaching determining the proximity of the identification device by measuring the elapsed time between a first time when the signal is transmitted and a second time when the signal returns to the detection circuit after reflecting off of the identification device. Wolley in an art related transponder system teaches determining the proximity of the identification device by measuring the elapsed time between a first time when the signal is transmitted and a second time when the signal returns to the detection circuit after reflecting off of the identification device (abstract) and also represents a conventional way of measuring distance.

It would have been obvious to one of ordinary skill in the art to determine the proximity of the identification device by measuring the elapsed time between a first time when the signal is transmitted and a second time when the signal returns to the detection circuit after reflecting off of the identification device in Xydis as evidenced by Wolley et

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al. because Xydis suggests determining whether the user identification device is within a predetermined proximity of a computer system and Wolley et al. teaches determining the proximity of the identification device by measuring the elapsed time between a first time when the signal is transmitted and a second time when the signal returns to the detection circuit after reflecting off of the identification device which also represents a conventional way of measuring distance.

Regarding claims 73-74, 77-78, and 81-82, Xydis teaches the program comprises an application program (col. 3 lines 62-63) and an operating system is inherently included in a computer.

Regarding claims 75, 79, and 83, Xydis teaches the inactive state comprises a locked state to deny access to the program (col. 4 lines 1-10).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vernal U Brown whose telephone number is 703-305-3864. The examiner can normally be reached on 8:30-6:30 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Horabik can be reached on 703-305-4704. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Vernal Brown

September 2, 2004

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